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MT LEGISLATIVE HISTORY

Chapter 129 1989

Bill (H) 99 S _____ Original bill & hist. ___C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Jan 13	✓C	Hearing Date(s)	Feb 12	✓C
	_____	___C		March	✓C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	Jan 13	✓C		March	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

CHAIRMAN--SEN. JOE MAZUREK
NORMAL SCHEDULE==> SITE: ROOM 325 DAYS: MON THRU FRI TIME: 10:00 A.M.

SECRETARY-MARY HUBER

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0013	1/21	2/05		CONCUR AS AMENDED		3/3
MERCER, JOHN			EXEMPT IN BANKRUPTCY ACTION ALL PROPERTY OF INDIVIDUAL EXEMPT UNDER MCA			
HB0019	1/24	2/05		CONCUR AS AMENDED		3/9
MERCER, JOHN			GENERAL REVISION OF LAWS RELATING TO PROPERTY EXEMPT FROM EXECUTION			
HB0021	1/21	2/05		CONCUR AS AMENDED		3/4
FRITZ, HARRY			RAISE LEGAL DRINKING AGE FROM 19 TO 21; PROVIDE EFFECTIVE DATES			
HB0037	1/21	2/10		CONCUR		3/5
BRADLEY, DOROTHY			DEFENDANT'S RECORD EXPUNGED UPON DISMISSAL OF CHARGES			
HB0042	1/21	3/03		CONCUR AS AMENDED		3/3
COBB, JOHN			CLARIFY LEGAL STANDARD GOVERNING LANDOWNER LIABILITY			
HB0053	1/21	3/03		CONCUR		3/11
EUDAILY, RALPH			GENERALLY REVISE MCA			
HB0058	1/27	3/04		CONCUR		3/4
KEENAN, NANCY			LET PSYCHOLOGISTS EXAMINE PERSONS WHEN MENTAL DEFECT IS A CRIMINAL ISSUE			
HB0065	1/21	3/04		CONCUR		3/4
PECK, RAY			SERVING OUT TRAFFIC FINES AT $10 PER DAY			
HB0073	3/03			CONCUR AS AMENDED		3/21
BRADLEY, DOROTHY			APPLICATION OF MOTOR VEHICLE LAWS TO MINORS -- EXCEPT PENALTY IMPOSITION			
HB0077	1/21	2/12		CONCUR		3/4
BROWN, JAN			ALLOWS PATERNITY ACTION BY STATE AGENCY UNTIL CHILD BECOMES 21 YEARS OF AGE			
HB0078	3/02	3/13		CONCUR AS AMENDED		3/19
BROWN, JAN			PERMIT ATTACHMENT OR GARNISHMENT OF WORKERS' COMP. TO PAY CHILD SUPPORT			

Senator Brown moved the amendments in the gray bill. The motion carried. Senator Halligan moved House Bill 21 BE CONCURRED IN AS AMENDED. The motion carried.

ACTION ON HOUSE BILL 139: Senator Halligan moved House Bill 139 BE CONCURRED IN. The motion carried.

ACTION ON HOUSE BILL 267: Senator Pinsoneault moved on page 2, line 5, to strike "or" and insert the word "and", so the psychologist will warn both, the authorities and the victim. Senator Bishop said it works both ways; he felt if the victim knew of the threat, the victim might cause the violent act. Senator Beck felt the police should be the only ones to know, because they will try to contact you instead of a psychiatrist. The motion carried, with Senators Halligan, Beck and Crippen voting no.

Senator Blaylock moved Joy McGrath's amendment (exhibit 3). He agreed the patient should know when confidentiality is broken. Senator Bishop said a patient won't divulge what is on his mind if the committee passes this amendment. Senator Pinsoneault agreed with Senator Bishop. Senator Blaylock said to the five attorneys on the committee, that he knew they would probably break confidentiality to clear someone of a conviction. Senator Mazurek pointed out a priest can't break confidentiality at all. Senator Crippen felt the amendment puts the mental health professional in a tight spot. Senator Mazurek agreed with Representative Mercer on his closing about a desperate person calling a crisis center and hanging up if this amendment was adopted. Senator Blaylock believed the patient is going to a mental health session with trust for the psychiatrist, and if this amendment doesn't pass, there is a break in that trust and relationship. The motion FAILS by a vote of 2 to 8, with Senators Blaylock and Yellowtail voting yes.

ACTION ON HOUSE BILL 77: Senator Mazurek explained the agency will not get federal funds unless the legislature passes this bill. Senator Crippen moved the bill BE CONCURRED IN. The motion carried.

ACTION ON HOUSE BILL 79: Senator Brown moved the bill BE CONCURRED IN. Senator Yellowtail expressed how he did not like the $100 a month penalty. Senator Halligan said in all of his child support cases, he has never seen a provision about a supporting parent having to pay for health coverage like this. Senator Mazurek said maybe this $100 penalty is cheaper than a health insurance premium.

Judiciary COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date March 4

NAME	PRESENT	ABSENT	EXCUSED
Senator Joe Mazurek, Chairman	X		
Senator Bruce Crippen, Vice Chairman	X		
Senator Tom Beck	X		
Senator Al Bishop	X		
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Jack Galt	X		
Senator Mike Halligan	X		
Senator Dick Pinsoneault	X		
Senator Bill Yellowtail	X		

Each day attach to minutes.

March 4 19 77

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 77

Third blue reading copy (color)

Allows paternity action by state agency until child becomes 21 years of age.
Brown (Brown)

Respectfully report as follows: That HOUSE BILL No. 77

~~DO PASS~~ BE CONCURRED IN

~~DO NOT PASS~~

Senator Mazurek
Chairman.

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

February 12, 1987

The twenty-seventh meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on February 12, 1987, by chairman Joe Mazurek, in Room 325 of the state Capitol.

ROLL CALL: All members were present with the exception of Senator Brown, who was excused.

CONSIDERATION OF HOUSE BILL 77: Representative Jan Brown, House District 46, Helena, introduced HB 77. (Exhibit 1)

PROPONENTS: John McRae, Child Support/DOR, said in the last legislative session, the DOR asked to get rid of the statute of limitation in this area. He said the bill allows the department to have paternity, but limits the liability in separate session. He said in this bill, the state will be able to follow the federal mandate on this subject.

OPPONENTS: There were no opponents.

DISCUSSION ON HOUSE BILL 77: Senator Halligan asked what specific language the federal agencies would want us to adopt. Mr. McRae said the federal agencies want us to establish paternity at anytime until the child is 18 years of age.

Representative Brown closed the hearing on HB 77.

CONSIDERATION OF HOUSE BILL 79: Representative Jan Brown, House District 46, Helena, introduced HB 79. (Exhibit 2)

PROPONENTS: John McRae, DOR, said the federal agencies have asked us to enforce the health insurance policy issue which involves children that should be covered. He said this enforcement policy makes the department go to district

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
John McRae	Child Support / DOR	77, 79, 81, 82	✓	
Sandy Chaney	Women's Lobbyist Fund	77, 79	✓	
Bill Harrington	Child Support / D.O.R	77-79 81-82	✓	
Glenn Truglio	HHS Dept. Health & Human Service	"	✓	
Kelly O'Sullivan	Child Support / DOR	77-79 81-82	✓	

(Please leave prepared statement with Secretary)

DATE Feb 12, 1985
BILL NO. HB 77

SUMMARY OF HB77 (J. BROWN)
(Prepared by Senate Judiciary Committee staff)

HB77 is by request of the Department of Revenue and amends the Uniform Parentage Act (Part 1 of chapter 6, Title 40) as it relates to the state's ability to bring a paternity action. Under current law, the state can bring a paternity action (for purposes of recouping public assistance payments) only for 2 years after the first application is made for public assistance. This bill indefinitely expands that time period by allowing the state to bring such actions at any time after first application until the child reaches the age of majority. The bill also limits recoupment of past public payments to the 2-year period prior to the commencement of the action.

COMMENTS: Apparently this bill is proposed to make Montana law comply with federal requirements for federal AFDC payments [1984 Child Support Amendments to the Social Security Act, P.L. 98-378].

C:\LANE\WP\SUMHB77.

FUND

Box 1099
Helena, MT 59624
449-7917

SENATE JUDICIARY
EXHIBIT NO. 3
DATE Feb. 12th
BILL NO. HB 79

February 12, 1987

Testimony for HB 77 and 79

Mr. Chairman and members of the Senate Judiciary Committee:

My name is Sandy Chaney and I am here today on behalf of the Women's Lobbyist Fund to offer general remarks in support of House Bills 77 and 79. These bills address the serious problem of non-payment of child support orders.

In 1985 Montana passed legislation enforcing the collection of child support payments. As a result, the amount of court ordered payments increased. (Great Falls Tribune, 6/13/86) Nevertheless, the inability to collect child support still plagues the custodial parent, usually the mother of the children. National statistics reveal that ninety percent of the time, custody is granted to the mother. (Newsweek, "Divorce American Style," 1/10/83)

With this increased responsibility to the child(ren) is often a decreased standard of living. In the first year after divorce, the standard of living of many women—and consequently of the children--plummets 73%; the standard of living of some men rises 42%. (The Divorce Revolution, Lenore Weitzman, 1985)

As is the case nationally, in Montana, single women who head the household frequently find themselves in a distressing financial situation. The latest census statistics for Montana report that women earn $.53 for every dollar that a man earns. Furthermore, the median income of female-headed households with children under six is a mere $5,173.

Exacerbating the woman's disparaging financial situation is her inability to collect child support. The court orders child support in only 59.1% of the divorce cases involving children. Of these, approximately 23% obtain partial payment, and 28% receive no payment at all. (Capitol: Women, "Poverty: the effects of nonsupport," 10/83. A newsletter of the House Committee on Constitutional Revision and Women's Rights. For more conservative figures, see Working Mother, 2/83.)

Clearly women as heads of the family cannot alone bear the responsibility of meeting the financial needs of the children. Responsibility must be share by both parents. House Bill 77 would help the state to enforce child support payments. The children, for whom the allowance is designed, will benefit.

An additional responsibility in the care of children is health insurance. The cost of providing adequate health insurance coverage, however, is prohibitive for women with only poverty-level incomes. In Montana approximately 38% of all civilian workers receive employer-sponsored health coverage--the second lowest in the nation. (Employee Benefit Research Institute Current Population Survey, 5/83) Women, many of them in low-paying jobs that offer no medical benefits, cannot afford health insurance for their children. House Bill 79 will help to guarantee needed health insurance for children in child support cases. House Bills 77 and 79 are designed to help the state to enforce child support obligations. Women's Lobbyist Fund urges you to pass these bills.

Form CS-32
Rev. 1985

STATUS SHEET

50TH LEGISLATIVE SESSION

JUDICIARY COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
13	12/29/87	1/12/87	1/12/87			1/12/87					
19	12/29/87	1/12/87	1/14/87			1/14/87					
21	12/29/87	1/7/87	1/9/87			1/9/87					
37	12/29/87	1/8/87	1/9/87			1/9/87					
42	12/29/87	1/9/87	1/9/87			1/9/87					
45	12/29/87	1/7/87	tabled 2/12/87								
53	1/2/87	1/9/87	1/9/87	1/9/87							
57	1/87	2/17/87 2/5/87	tabled 2/20/87								
70	1/5/87	1/15/87	2/2/87				2/2/87				
72	1/5/87	1/16/87	1/23/87		1/23/87						
3	1/5/87	1/14/87	1/22/87			1/22/87					
7	1/5/87	1/13/87	1/13/87			1/13/87					
8	1/5/87	1/13/87	tabled 2/12/87			2/19/87					
9	1/5/87	1/13/87	1/23/87			1/23/87					

a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 13, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on January 13, 1987, at 8:00 a.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Grady who was excused.

HOUSE BILL NO. 77: Rep. Jan Brown, District No. 46, Helena, stated in 1975, federal legislation was passed, part of the Social Security Act. It provided for child support enforcement. In Montana, these duties are carried out through the Department of Revenue. This bill allows a paternity action to be brought by a state agency until the child attains the age of majority but would limit the recoupment of the public assistance payments.

PROPONENTS: John McRae, Staff Attorney for the Child Support Enforcement Program with the Department of Revenue, stated the U.S. Supreme Court and the Montana Supreme Court has held that the two year statute of limitations is unconstitutional as applied in the Uniform Maternity Act. It violates the rights of the child to find who the father is. As a result of the Supreme Court decision, states have reassessed statute of limitations around the country. Some have removed them all together and some have extended the time periods. He stated the Montana Supreme Court, in throwing out the statute of limitations, held that the state limitations did apply to actions being brought by a state agency. Because of decisions like the state of Montana made in extending the statute of limitations rather than removing them, Congress passed a requirement that as a condition of A.F.D.C. benefits, the state must establish paternity at any time up to the child's age of majority. The office of child support in the Department of Health and Human Services, have declared that Montana is not in compliance with the child support enforcement amendments of 1984. This bill changes the language around, somewhat, by stating the paternity can be established at any time until the child's majority, but liability for the past expenses are limited to the two years prior to commencement of the action. This way the federal requirements are met because paternity is established without any limitations and the liability is taken care of. He urged passage of this bill.

PROPONENTS: Antonina Vaznelis, attorney from Helena, submitted written testimony stating the Department of Revenue has proposed amendments to bring the UPA in line with federal requirements that permit paternity to be established at any time prior to a child's 18th birthday. The UPA, as written, assumes only the DOR will prosecute paternity actions. She further stated this is not always so. (Exhibit A). She also submitted amendments proposing the UPA be amended. (See Exhibit A). Ms. Vaznelis closed by saying she hoped the legislature would act soon so mothers have the option to fight for child support, whether the state agrees to represent them or not.

Sandy Chaney, representing the Women's Lobbyist Fund, submitted written testimony in support of HB #77, 78 and 79. (Exhibit B). The lobbyist fund views these bills to be a laudable effort to combat the serious problem of non-payment of child support orders. Lack of child support places women on welfare; lack of child support forces female heads-of-families into poverty.

No further proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 77: Chairman Lory asked Rep. Jan Brown about the immediate effective date on the fiscal note. Rep. Brown asked John McRae to address this and stated the bill does need amending. Mr. McRae stated there is proposed language to amend the bill providing for an effective date. He submitted an amendment. (Exhibit C). He also proposed to amend the title so an immediate starting date would be reflected.

Rep. Cobb asked Mr. McRae how much money would be lost if this bill is not passed. Mr. McRae referred to Glenn Truglio to explain Federal Sanctions since he is the regional representative for the federal child support office from Denver, Colorado. He stated Montana could lose 2 1/2 million dollars.

Rep. Rapp-Svrcek questioned Mr. Harrington, the program director, on what the total child support budget program would come to per year. Mr. Harrington stated 70% of the budget is funded by the Federal Government and 30% is funded by the General Fund. The total comes to 1.6 million dollars.

Rep. Miles asked Mr. Truglio for confirmation of acceptance by the Federal Government for this kind of language. She stated Mr. Truglio seems to have concerns for paternity actions being taken, but that he is not concerned about arrearage payments. Mr. Truglio said the language would be

sufficient and the Federal Government is not concerned with the payment issue per se.

Rep. Cobb questioned the two year statute of limitations by asking Mr. Truglio if he cared what was done with the statute in terms of holding the obligator responsible for a set amount of payment. Mr. Truglio said the government did not care what year or amount was established.

Rep. Mercer asked Mr. Truglio what the purpose was behind the Federal Government telling us what to do. Mr. Truglio explained the purpose and the concern of the department was the child. The child needs to have paternity established for many reasons. One reason is in case the father should die. If the father is a veteran, there are all kinds of governmental benefits the child would accrue. It is critical when a case comes to the agency, that paternity be pursued to insure the child's future rights are protected.

Rep. Jan Brown closed the hearing on HB #77.

HOUSE BILL NO. 78: Rep. Jan Brown, District No. 46, stated this bill permits the attachment of Workers' Compensation benefits for the payment of child support obligations.

PROPONENTS: John McRae, Department of Child Support Enforcement Program, explained this bill is probably one of the most important bills for the department in terms of financial aspects. He stated since 1985, the department has identified 52 cases where children have received A.F.D.C. payments and the fathers were receiving, at the same time, Workmans' Compensation benefits. In these 52 cases, the state had paid out over $170,000.00 worth of benefits. These were paid without any ability to recoup the benefits from the father. The 52 cases referred to, have been tracted as a pilot suggestion. Out of all the cases, this is money children are being deprived of and the taxpayers of the state of Montana are being deprived of. There is a real distinction between a married and a divorced parent. He stated the taxpayers of Montana are not only funding, in part, the Workmans' Compensation program, but also, in part, are funding the A.F.D.C. programs. Since the intent of Workmans' Compensation is to provide for children, and the A.F.D.C. is to provide for children, we are duplicating the benefits. Not all the funding is necessarily going to those children. This bill will allow the change in Workmans' Compensation money to be attached, or garnished, for the purpose of child support.

Sandy Chaney, Women's Lobbyist Fund, stated her support. (See Exhibit B-HB #77).

with the court system is that the court system is not sure of what the status of this assignment law is. The particular law that is being drafted here is to make it clear what is being assigned is the right and not just the money. It makes it clear that if someone attempts to modify it, the modification attempt will be invalid. If someone does attempt modification, it will make it easier for us in the District Courts to have these set aside. It would be a form of a summary judgement process. Within the last year, there has been 11 cases, whereby, approximately $75,000.00 support arrears was compromised by these modification attempts. He said out of the assigned money, the department retains only the A.F.D.C. reimbursement and the department only operates under the assigned regulations of the federal government.

No further proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 82: Rep. Eudaily questioned Mr. McRae on what the words, "the department" refers to on page 3, line 22. Mr. McRae stated this section is found under title 53, which is in reference to the Department of SRS. Rep. Eudaily pointed out this is one of the corrections made in the Code Commissioners bill this session. The Code Commissioners recommendation was this must be specific.

Rep. Cobb stated two years ago, the committee voted to make the department an enforcer and collector. Now, it appears we are making the department a judge and a prosecutor all at the same time. Mr. McRae stated since 1979, the department has had administrative powers to hold hearings in front of a hearings examiner who, in effect, is a judge.

Rep. Mercer asked Mr. McRae what do we have to do to be in conformity with the federal law. Mr. McRae stated currently, in the Montana law, there is no definition for assigned amounts and the department has looked towards the federal law which says, in essence, we can retain out-of-the arrears sufficient amounts to reimburse A.F.D.C. Rep. Mercer asked him if we are required to pass this bill in order to be eligible for federal funds. Mr. McRae answered by saying, "no".

Rep. Jan Brown closed the hearing on HB #82.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL NO. 77: Rep. Eudaily moves to amend the effective date. All members voted in favor of the amendment. The motion carried unanimously. Rep. Addy moved DO PASS AS AMENDED. A voice vote was taken and the motion carried unanimously.

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan 13, 1987

NAME	PRESENT	ABSENT	EXCUSED
EARL LORY (R)	✓		
JOHN MERCER (R)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
TOM BULGER (D)	✓		
JOHN COBB (R)	✓		
FRITZ DAILY (D)	✓		
PAULA DARKO (D)	✓		
RALPH EUDAILY (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
ED GRADY (R)		✓	✓
TOM HANNAH (R)	✓		
VERNON KELLER (R)	✓		
AL MYERS (R)	✓		
JOAN MILES (D)	✓		
PAUL RAPP-SVRCEK (D)	✓		
BILL STRIZICH (D)	✓		

EXHIBIT A
DATE 1-13-87
HB # 77

ANTONINA VAZNELIS
ATTORNEY AT LAW
1085 HELENA AVENUE
HELENA, MONTANA 59601
(406) 442-3625

January 13, 1987

Judiciary Committee
House of Representatives
Capitol Building
Helena, MT 59624

RE: HB 77
Uniform Parentage Act

Dear Committee Member:

I am a local attorney in private practice and a former teenage mother and AFDC recipient. I have both a personal and professional interest in the way the Uniform Parentage Act (UPA) works.

The Department of Revenue has proposed amendments to bring the UPA in line with federal requirements that permit paternity to be established at any time prior to a child's 18th birthday. The UPA, as written, assumes that only the DOR will prosecute paternity actions. That is not always so.

In my short six months of private practice, I have been involved in three UPA cases: (1) As court-appointed guardian ad litem in an on-going paternity case prosecuted by DOR on behalf of an AFDC mother; (2) private counsel for a middle-class, working mother in a case where the father had admitted paternity, had his name placed on the birth certificate, and entered into a custody agreement with the mother when the child was an infant. However, no child support was ever ordered or paid. As the child gets older, he becomes more expensive to support and the mother wants the father to help; (3) private counsel for an AFDC mother defending against a father's demand for sole custody.

This third case is the reason I am writing to you. The mother had been working with DOR, which was attempting to negotiate a child support agreement with the putative father in Great Falls. The blood tests came back with a 99.16% probability of paternity. The father is employed full time by Cascade County with a good salary. He has seen the child only once -- when blood was taken for testing in May.

In November, he filed a Petition for Sole Custody in the Great Falls District Court. The mother cannot afford to travel to Great Falls, much less hire an attorney. DOR will not represent her on the issues of venue, custody or visitation. DOR has statutory authority to address the issues of paternity and child support only.

EXHIBIT A
DATE 1-13-87
SB #77

I agreed to represent her because I recognized her helplessness and because I was angered by the father's legal maneuvering and attempts to intimidate this mother into abandoning her child's claim for support. I have done hundreds of dollars of work and have been paid $10.00. As a new lawyer, I cannot afford to do much pro bono work. As a former AFDC recipient, however, I could not ignore this woman's desperate plea for assistance. DOR could not help her; Legal Services would not.

The UPA should be amended to provide for costs and attorney's fees to be paid by the father if he has the financial resources to do so and the mother does not. The Uniform Marriage and Divorce Act, § 40-4-110, MCA, has such a provision for divorcing mothers. The UPA has no such provision for unwed mothers, although their circumstances are often more desperate than married mothers.

In addition, the UPA requires appointment of a guardian ad litem to represent the child's interests. See § 40-6-110, MCA. However, there is no provision for how the guardian ad litem is to be paid.

I propose that the UPA be amended as follows:

(1) Where the DOR represents the mother and paternity is established, the DOR absorbs the mother's "attorney fees" but the father pays court costs, including the cost of the blood tests.

Where fathers admit paternity following blood testing and enter into a support agreement without requiring court costs, then DOR absorbs 1/2 of the blood test costs and the father pays 1/2.

(2) Where private counsel represents the mother and paternity is established, the father shall pay court costs (including blood tests) and the mother's attorney's fees.

Where the father admits paternity and enters into a support agreement prior to any court decree, these costs and attorney fees should be allocated on the basis of need as set forth in § 40-4-110, MCA.

(3) The costs and expenses of the court appointed guardian ad litem should be shared equally by DOR and the father if the case settles prior to the hearing required by §§ 40-6-110 and 40-6-114, MCA.

If a trial is required to establish paternity and paternity is established, then the father shall bear all the costs and expenses incurred by the guardian ad litem.

The private bar would be much more likely to prosecute paternity cases if there were a possibility of payment upon completion. As the UPA reads now, if DOR cannot help a mother and she is unable to afford a lawyer, she's just out of luck -- and so is the child.

I have a child to support myself and a husband who was riffed from his state jobin December. Therefore, this one-woman legal services office

EXHIBIT 2
DATE 1-13-87
HB #77

closing to pro bono clients. I hope the Legislature will act soon so mothers have the option to fight for child support, whether the State agrees to represent them or not.

Sincerely,

ANTONINA VAZNELIS
Attorney at Law

AV/klr

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

January 13, 1987

EXHIBIT B
DATE 1-13-87
HB #77, 78 & 79

Testimony in support of House bills 77, 78, and 79

Mr. Chairman and members of the House Judiciary Committee:

My name is Sandy Chaney and I am here today on behalf of the Women's Lobbyist Fund to speak in support of House bills 77, 78, and 79. I ask that you consider my testimony on these three bills at this time. Women's Lobbyist Fund views these bills to be a laudable effort to combat the serious problem of non-payment of child support orders. Lack of child support places women on welfare; lack of child support forces female-heads of families into poverty. (Ms. , June, 1985)

In 1985 Montana passed legislation enforcing the collection of child support payments. As a result, the amount of court ordered payments increased. (Great Falls Tribune, 6/13/86) Nevertheless, the inability to collect child support still plagues many of Montana's single-parent families, the majority of which are headed by women. According to the latest census data for Montana, 20,117 households in our state are headed by females, although not all of these cases can be attributed to divorce alone.

Divorce, however, is one factor that increases the number of female-headed families. National statistics reveal that ninety percent of the time, custody is granted to the mother (Newsweek, "Divorce American Style," 1/10/83) With this increased responsibility to the child(ren) is a decreased standard of living. In the first year after divorce, the woman's standard of living--and consequently the children's--plummets 73%; the man's standard of living rises 42%. (The Divorce Revolution, Lenore Weitzman, 1985)

Exacerbating the woman's disparaging financial situation is her inability to collect child support. The court orders child support in only 59.1% of the cases involving children. Of these, approximately 23% obtain partial payment, and 28% recieve no payment at all. (Capitol: Women, "Poverty: the effects of nonsupport," 10/83. A newsletter of the House Committee on Constitutional Revision and Women's Rights. For more conservative figures, see Working Mother, 2/83)

As is the case nationally, in Montana, single women who head the household frequently find themselves in a distressing financial situation. The latest census statistics for Montana report that women earn 53¢ for every dollar that a man earns. Furthermore, the median income of female-headed households with children under six is a mere $4,931. Compare this figure with the poverty level of a three-person family which is $5,844.

Clearly women as heads of the family cannot alone bear the responsibility of meeting the financial needs of the children. Responsibility must be shared by both parents. Unfortunately men, who are most often in a better financial position, fail to contribute their fair share. House bills 77 and 78 would help the state to enforce child support payments. The children, for whom the allowance is designed, will benefit.

An additional responsibility in the care of children is health insurance. The cost of providing adequate health insurance coverage, however, is prohibitive for women with only poverty-level incomes. In Montana approximately 38% of all civilian workers receive employer-sponsored health coverage--the second lowest in the nation!! (Employee Benefit Research Institute Current Population Survey, 5/83) Women, many of them in low-paying jobs that offer no medical benefits, cannot afford health insurance for their children. House bill 79 will help to guarantee needed health insurance for children in child support cases.

DATE 1-13-87
HB #77

AMENDMENTS TO HB 77, INTRODUCED COPY, INTRODUCED BY JAN BROWN, PROPOSED BY JOHN McRAE.

1. Page 2.
   Following: line 25
   Insert: "NEW SECTION. Section 2. Effective date. This act is effective on passage and approval."

STANDING COMMITTEE REPORT

January 13, 1937

Mr. Speaker: We, the committee on JUDICIARY

report House Bill No. 77

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Chairman

"AN ACT ALLOWING A PATERNITY ACTION TO BE BROUGHT BY A STATE AGENCY UNTIL THE CHILD ATTAINS THE AGE OF MAJORITY; LIMITING RECOUPMENT OF PUBLIC ASSISTANCE PAYMENTS; AND AMENDING SECTION 40-6-108, MCA."

1. Title, line 3.
Strike: "AND"
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 2.
Following: line 25
Insert: "NEW SECTION. Section 2. Effective date. This act is effective on passage and approval."

FIRST reading copy (WHITE color)

VISITOR'S REGISTER

JUDICIARY COMMITTEE

AGENCY(S) _____ DATE January 13, 1987

DEPARTMENT _____ HB# 77, 78, 79, 81, 82

PLEASE PRINT.....

NAME	REPRESENTING	SUPPORT	OPPOSE
Bill Harrington	D.O.R. Child Support	X	
Dian Drudge	U.S. Dept Health + Human Svc	X	
John McRae	DOR - CSEP	X	
Dennis Stober	DOR - Child Support	X	
Mary LaFond	OBPP		
Sandy Chaney	Women's Lobbyist Fund	X	
Debra Jones	Women's Lobbyist Fund	X	
Nina Vagnelis	attorney — self	X	
Diane Sands	Women's Lobbyist Fund	X	
Wilbur Rehmann			
Rick Young	Stillwater County		
Dave Kelsey	" "		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT.
IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY.

FORM CS-33A
Rev. 1985